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ORDER SHEET
WPO No.1085 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BIJOLI BASAK
-Versus-
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:12th July, 2023.

Appearance:
Mr. Anirban Majumder, Adv.
Mr. Somnath De, Adv.
...for Petitioner.

Mr. Srijan Nayak, Adv.
Ms. Rituparna Maitra, Adv.
...for KMC.

Mr. Sayantan Bose, Adv.
Mr. Sarbajit Mukherjee, Adv.
Ms. Ankita Choudhury, Adv.
...for Respondent Nos.12 to 16.

The Court:- A report has been filed by the Assistant Engineer (Civil)/ Building and the Executive Engineer (Civil)/Building/Borough-IV & V signed on 28.06.2023 wherein it has been mentioned that pursuant to the order passed by this Court on 09.06.2023 a hearing was conducted on 24.06.2023. At the time of hearing, the private respondent was present but the petitioner was absent.

A building sanctioned plan was issued under Rule 3(2) (e) of the Kolkata Municipal Corporation Building Rules, 2009 and notice under Section 401 of the Kolkata Municipal Corporation Act along with Circular-9 vide Sl. No.08/Br.-IV/2021-22 dated 11.06.2021 was issued. The deviation which was found at the time of inspection has been regularized.

Report mentions that there was no gap between the premises of the petitioner and that of the private respondent. There was an open space inside the premises. The private respondent is the owner of the said space.

Learned advocate representing the petitioner denies that any hearing was conducted on 24.06.2023. It has been submitted that the order of

regularization was passed without any opportunity of hearing to the petitioner. The petitioner was not aware of the order of regularization that has been passed. The petitioner is aggrieved by the order of regularization.

Learned advocate representing the private respondent submits, upon instruction that, hearing was duly conducted by the respondent authority in compliance of the direction passed by this Court.

The order of regularization has been placed before this Court by the learned advocate representing the Corporation.

The order of regularization being an appealable one, it will be open for the petitioner to approach the appropriate forum for remedy. It will also be open for the petitioner to seek condonation of delay in filing the appeal, if any.

Be it recorded that the petitioner was not formally served with a copy of the order of regularization and the petitioner got the knowledge of the order of regularization after the same was placed before this Court by the learned advocate representing the Corporation in the month of June, 2023.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)